

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 18,212
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying her payments for lot rent under the General Assistance (GA) program.

FINDINGS OF FACT

1. The petitioner is a fifty-nine-year-old woman who has had chronic health problems. She has applied for Social Security benefits but was denied. She has no income but receives Food Stamps and VHAP medical assistance. PATH has been assisting the petitioner by paying her electric bill and her personal needs through the GA program.

2. The petitioner currently lives in a mobile home owned by her but the lot it is on does not belong to her. She has had various agreements in the past to buy the land through monthly payments but these plans have fallen through. According to a Caledonia Superior Court order dated November

30, 2001, the petitioner's only interest in the land is a long-term lease through January 10, 2005 on which she must pay \$80 per month. (See R.B. v. N.T. Docket No. 237-9-01).

3. Court documents provided by the petitioner show that her landlord has attempted to evict her on at least three occasions since 1999. The court has denied the landlord's request for possession in the two previous cases. The third case is currently pending before the Court on a claim that the petitioner has failed to pay the lot rent for the last two years and owes \$3,040. The petitioner disputes this. She says she has tried to pay the rent but the owner of the land would not accept. She produced a money order made out to the owner for \$960 covering the rent for most of 2002 which she says he did not cash. She claims that the landowner is trying to evict her so his girlfriend can live on the property. A hearing is set on the eviction action in Caledonia Superior Court on March 12, 2003.

4. The petitioner applied for housing assistance on December 12, 2003, asking PATH to pay the \$80 per month payment for the lot rent as she currently has no money. PATH denied the petitioner in writing saying that payment of the \$80 per month rent would not prevent her eviction. This decision was based upon conversations PATH had with the land

owner in which he allegedly told PATH that the petitioner was considerably behind in the rent, that he intended to evict the petitioner and that he would not accept any payments on her behalf.

ORDER

PATH's decision is reversed and PATH is required to pay the petitioner's \$80 per month lot rent for December 2002 through March 2003 if, and only if, the Superior Court should decide the petitioner can retain possession of the premises.

REASONS

General Assistance is a completely state-funded program set up to meet recipients' "emergency needs" including the need to maintain shelter. W.A.M. 2600 et seq. The regulations specifically provide for the payment of rent to provide "permanent housing." "Permanent housing" is defined as "housing accommodations intended to provide shelter on a continuing basis." (Emphasis supplied). W.A.M. 2613.1. PATH is correct that it is not required under its regulation to make housing payments on behalf of recipients unless those payments will preserve the recipients' shelter. In other words, PATH's concern is not in paying past, current or future

debts of the recipients, but in providing them with the means to have decent shelter.

PATH does not dispute that the petitioner is generally eligible for the GA program beginning in December 2002 and extending to the present time. The only issue is whether payment of the lot rent commencing in December 2002 to the present will keep the petitioner in housing. The petitioner claims that she is not behind in the rent although it appears that there has been some kind of problem with payment or acceptance of payment during the last year or two. PATH is relying on the landowner's statement that the petitioner is \$3,040 behind in the rent, that he will not accept further payments and that he will proceed with the eviction to deny the payments. The truth of this statement was not tested at hearing because the landlord was not present. Subsequent to the hearing, PATH offered to subpoena the landowner to a further hearing to resolve the question.

The latter is an unnecessary step as these issues will be resolved by the Superior Court on March 12, 2003. While the landlord may wish to evict the petitioner, it is solely the Court's decision whether there has been a breach of the lease sufficient to order the petitioner off the property. If the Court decides at that time that the last impediment to the

petitioner retaining possession of the premises is the rent owed since December of 2002, then PATH is ordered to make those payments. If the petitioner is evicted in that Court proceeding, then there is no point in PATH making any retroactive or future payments on the lot rent. PATH has certainly been placed in an awkward position by the landlord refusing to take the monthly rent. However, a decision that payment will not prevent the eviction is premature until the Court makes its decision on March 12.

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